

Civilian Police Oversight Agency Board

Dr. William J. Kass, Chair Eric Olivas, Vice Chair

Tara Armijo-Prewitt

Chantal M. Galloway

Doug Mitchell

Eric Nixon

Cathryn Starr

Edward Harness, Executive Director

Thursday, August 13, 2020 – 5:00 PM

Members Present:

Dr. William Kass, Chair

Eric Olivas, Vice Chair

Tara Armijo-Prewitt

Chantal M. Galloway

Doug Mitchell

Eric Nixon

Members Absent:

Cathryn Starr

Others Present:

Edward Harness, CPOA

Katrina Sigala, CPOA

Valerie Barela, CPOA

Tina Gooch, Atty

Esteban Aguilar Jr, City Atty

Lindsay Van Meter, Asst. City Atty

Deputy Chief Mike Smathers, APD

Lt. Michael Meisinger, APD

Lt. Nicholas Sanders, APD

Chris Sylvan, City Council

Attendance: In response to the Governor's declaration of a Public Health Emergency and ban on large public gatherings, the Civilian Police Oversight (CPOA) Board meeting on Thursday, August 13, 2020 at 5:00 pm will be held via Zoom video conference.

Viewing: Members of the public will have the ability to view the meeting through GOVTV on Comcast Channel 16, or to stream live on the GOVTV website at: <https://www.cabq.gov/culturalservices/govtv>, or on YouTube at: https://www.cabq.gov/cpoa/events/copy12_of_cpoa-board-meeting. (Please note that the link for YouTube has not yet been generated, however, the link could easily be found on the link provided above prior to the start of the meeting). The GOVTV live stream can be accessed at these addresses from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the CPOA Board will also remain available for viewing at any time on the CPOA's website. CPOA Staff is available to help members of the public access pre-recorded CPOA meetings on-line at any time during normal business hours. Please email CPOA@cabq.gov for assistance.

Public Comment: The agenda for the meeting will be posted on the CPOA website by 5:00 pm, Monday, August 10, 2020 at www.cabq.gov/cpoa.

The CPOA Board will take general public comment and comment on the meeting's specific agenda items in written form via email through 4:00 pm on Thursday, August 13, 2020. Submit your public comments to: POB@cabq.gov. These comments will be distributed to all CPOA Board members for review.

Civilian Police Oversight Board

Minutes – August 13, 2020

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Meeting Minutes

I. Welcome and call to order. Chair Dr. Kass called to order the regular meeting of the Civilian Police Oversight Agency Board at 5:04 pm

II. Mission Statement – Dr. William Kass, Chair

“Advancing Constitutional policing and accountability for APD and the Albuquerque Community.”

III. Approval of the Agenda

a. Motion. Motion by Member Galloway to approve the Agenda. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

b. Motion. Motion by Chair Dr. Kass to amend the Agenda to add an administration item under item VII. Reports from Subcommittees to announce and approval of changes in subcommittee memberships. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

IV. Public Comments

a. Geraldine Amato (see attached)

V. Review and Approval of Minutes. For more information about minutes from prior CPOA Board meetings, please visit our website here:

<http://www.cabq.gov/cpoa/police-oversight-board/pob-agenda-meeting-minutes>

a. Review and Approval of Minutes from July 9, 2020

1. Copies of the draft minutes from the July 9, 2020 Civilian Police Oversight Agency Board meeting were electronically distributed to each Member in their packets.

2. Motion. Motion by Member Mitchell to approve the minutes as drafted. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

VI. Reports from City Departments

a. APD

- 1. Crimes Against Children Unit Field Officer Training.** Lieutenant Sanders and Lieutenant Meisinger gave a presentation on Field Officer Training.
- 2. Report on Use of Military Equipment.** Deputy Chief Smathers gave a report on the use of military equipment.

b. City Council

1. Public Safety Policy Analyst – Chris Sylvan presented his report.

c. Mayor's Office

1. City Attorney – Esteban Aguilar Jr. presented his report.

d. City Attorney

1. Assistant City Attorney – Lindsay Van Meter presented her report.

e. CPC

1. Executive Director - Edward Harness presented his report.

f. APOA

1. There was no report.

g. Public Safety Committee

1. Next meeting August 25, 2020 at 3:00 pm.

h. CPOA

1. Executive Director - Edward Harness presented his report.

VII. Reports from Subcommittees

- 1. Subcommittee Memberships.** Motion by Vice Chair Olivas to approve the subcommittee arrangements as drafted by the Chair. Roll call vote taken. Motion passed. (see attached)

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

a. Community Outreach Subcommittee – Chantal Galloway

- 1. Met July 28, 2020 at 3:00 pm (video conference)**
- 2. Next meeting August 25, 2020 at 3:00 pm**

b. Policy and Procedure Review Subcommittee – Dr. William Kass

- 1. Met August 6, 2020 at 4:30 pm (video conference)**
- 2. Next meeting September 3, 2020 at 4:30 pm**

c. Case Review Subcommittee – Chantal Galloway

- 1. Met July 28, 2020 at 4:40 pm (video conference)**
- 2. Next meeting October 27, 2020 at 4:30 pm**

d. Personnel Subcommittee – Doug Mitchell

- 1. Met July 27, 2020 at 3:00 pm (video conference)**
- 2. Next meeting August 31, 2020 at 3:00 pm**

****Ten-minute break began at 7:22 pm and reconvened at 7:35 pm****

VIII. Discussion and Possible Action

a. Subpoena Consideration and Issuance CPC 161-20

- 1. Motion.** Motion by Member Galloway to issue an Administrative Subpoena to complainant Sophia Zaharias in CPC 161-20. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

- 2. Motion.** A second Motion by Member Galloway to issue an Administrative Subpoena to Joseph Hausman in CPC 161-20. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

b. Approval of Executive Director's Evaluation Form

- 1. Motion.** Motion by Member Mitchell to table Approval of Executive Director's Evaluation Form to the next regular scheduled CPOA Board meeting. Roll call vote taken. Motion Fails.

For: 2 – Olivas, Nixon

Against: 4 – Kass, Armijo-Prewitt, Galloway, Mitchell

- 2. Motion.** A second Motion by Member Mitchell to adopt the Executive Director's Evaluation Form that was used in 2018 for the purposes of the 2019 Executive Director's Evaluation. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

- 3. Motion.** A third Motion by Member Mitchell to send the Executive Director's Evaluation Form to any CPOA staff member and any CPOA Board Member who is still employed or is still a Board member and who was still employed in 2019 to include the DOJ Monitor. Roll call vote Motion passed.

For: 4 - Kass, Olivas, Mitchell, Nixon

Against: 2 – Armijo-Prewitt, Galloway

c. Approval of Board Appeal Finding Letter for CPC 046-20

- 1. Motion.** Motion by Member Galloway to approve the finding letter for CPC 046-20 with omission of the first paragraph. Roll call vote taken. Motion passed. (see attached)

For: 6 - Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

- d. **Discussion of Board Members' Response to Public Inquires**
1. **Motion.** Motion by Member Mitchell to move the Discussion of Board Members' Response to the Public Inquires to the Outreach Committee for development of the policy. Roll call vote taken. Motion passed.

For: 6 - Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

- e. **Approval of October and November 2020 Board Meeting Date Changes**

1. **Motion.** Motion by Member Galloway to change the October 2020 CPOA Board Meeting date to Tuesday, October 6, 2020 at 5:00 pm. Roll call vote taken. Motion passed.

For: 6 - Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

2. The November 2020 CPOA Board Meeting date did not need to be changed and will remain as regularly scheduled.

IX. Review of Cases:

- a. **Administratively Closed Cases**
147-20 155-20

1. **Motion.** Motion by Vice-Chair Olivas to accept the Administratively closed cases. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

X. Request for Reconsideration
098-18

1. **Motion.** Motion by member Galloway to deny the request to reopen due to the lack of any new evidence that has been provided. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

XI. Serious Use of Force Cases/Officer Involved Shooting
a. 18-0122233

1. **Motion.** Motion by Chair to Kass to table Serious Use of Force Case/Officer Involved Shooting 18-0122233 to the next regular scheduled CPOA Board meeting.

2. Motion. Motion by Member Galloway to request the case file and any associated On-Body Recording Device (OBRD) video. Motion passed. Roll call vote taken.

For: 5 – Kass, Olivas, Armijo-Prewitt, Galloway, Nixon
Against: 1 – Mitchell

b. 18-0118590

1. Motion. Motion by Member Galloway to request the case file and any associated On-Body Recording Device (OBRD) video. Motion fails. Roll call vote taken.

For: 2 – Galloway, Nixon
Against: 4 – Kass, Olivas, Armijo-Prewitt, Mitchell

2. Motion. Motion by Member Mitchell to accept the Civilian Police Oversight Agency (CPOA) findings of the Serious Use of Case 18-0118590. Roll call vote taken. Motion passed.

For: 5 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell
Against: 1 – Nixon

c. 19-0035838

1. Motion. Motion by Member Mitchell to accept the Civilian Police Oversight Agency (CPOA) findings of the Serious Use of Case 19-0035838. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

XII. Other Business

- a. Member Armijo-Prewitt requested changes to CPOA Policies and Procedures as it pertains to members requesting more information on an investigation case and the item will be placed on the next regularly scheduled Policy and Procedure Subcommittee and CPOA Board meeting Agendas.
- b. Member Galloway requested a six (6) month tickler for reminding the CPOA Board to revisit APD training on how they handle children and will submit her request in writing.
- c. Vice Chair Olivas announced his intent to present a letter to City Council on funding of the CPOA and will present it to the CPOA Board.
- d. Vice Chair Olivas requested a Special Personnel Subcommittee meeting on August 20, 2020 at 9:00 am.
- e. Vice Chair Olivas brought to attention the alleged APD overtime abuse.
- f. Vice Chair Olivas brought to attention the alleged abuse of power related to APD Chief of Staff.

- g. Vice Chair Olivas spoke about CPOA deadlines for investigation cases and the item will be placed on the next regularly scheduled CPOA Board agenda.
- h. Member Galloway requested a closed session at the next CPOA Board meeting and a closed session item will be placed on the next regularly scheduled CPOA Board agenda.

XIII. Adjournment

- a. A motion was made by Member Mitchell to adjourn the meeting. Roll call vote taken. Motion passed.

For: 6 – Kass, Olivas, Armijo-Prewitt, Galloway, Mitchell, Nixon

- b. The meeting adjourned at 10:46 pm.

ATTACHMENTS

To City Police Oversight Board
August 13 2020 Meeting
Public Comment

From GERALDINE AMATO

RE: City Council Resolution 65
"Prohibiting the Police Dept from
Applying Seal or Receiving
Supplies, Equipment, or Personnel
for Civilian Law Enforcement Use."
... "Sponsored by Pres DAVIS & Councilor Sena"

THIS RESOLUTION IS MERELY POSTURING.
ONE GLARING CONTRADICTION IS
THE USE OF THE WORD "CIVILIAN",
WHICH IS A MILITARY TERM (RATHER
THAN "CITIZEN" OR "INHABITANT.") / OUR?

STATE AND ALL ITS "INCORPORATED"
"MUNICIPALITIES" HAVE BEEN
ACTING MARTIAL LAW "RULE" FROM
THEIR BEGINNINGS, INEXORABLY AGGRAN-
DIZING, GRANDER, MARTIAL AUTHORITY
SINCE THE ACCOMPLISHMENTS OF THE
ESTABLISHMENT CONTRIVED "CIVIL"
WAR, POLICE POWERS, AT THE LOCAL
LEVEL, HAVE BEEN COOPTED INCREMENTALLY
BY "CENTRAL" (FEDERAL) COMMAND.

THE COMPLETION OF ALL LOCAL POLICE
AUTHORITY UNDER THIS CENTRAL COMMAND
WOULD PUT THE PENTAGON'S MILITARY
AUTHORITY AS ABSOLUTELY IN CONTROL.
HENCE THE PRIVATELY-OWNED
CENTRAL BANK'S PROPRIETORS IE
THE INTERNATIONAL BANKSTER
CARTEL, OF WHICH THE "FEDERAL"
RESERVE

IF THE MILITARY EQUIPMENT IS NOT REVENUE IS USED IT PASSED ALREADY THIS RESOLUTION

City Council
CPOA AUGUST R 65
13 MEETING 2020

AMATO (2) L 1
PUBLIC COMMENT

SUPPORTIVE INFO CAN BE PROVIDED UPON REQUEST

Reserve IS AN INTEGRAL PART. THE
INTERNATIONALISTS HAVE ALL THE RESOURCES
(incl. "HUMAN" RESOURCES) IN ACTUAL
"RECIERVERSHIP". THIS ACTUALITY IS DELIBERATELY
CONCEALED FROM THE PUBLIC'S CONSCIOUS
AWARENESS. THE BANKSTER CARTEL'S OWNERS
CAN ONLY SUCCESSFULLY FORECLOSE WHEN THEY
EFFECTIVELY DISARM ANY RESISTANCE
ELEMENT IN SOCIETY. IF ENUF FOLKS UNDER-
STOOD TREACHERY, IT WOULD BE "COMMON
KNOWLEDGE" THAT UNARMED PROTESTS IN
THE STREETS WOULD DO NOTHING TO MOTIVATE
REPROBATES TO REFORM. TEARING DOWN
STATUES, RE: PAST HISTORIES, DOES NOTHING
TO OPPOSE THE PERPETRATORS OF ATROCITIES
IN THE RIGHT NOW. AND UNARMED PROTESTORS
IN THE STREETS WILL BE IN EXCRUCIATING
MORTAL DANGER SHOULD THE ESTABLISHMENT
ACCOMPLISH CONFISCATION OF ALL THE
ARMS FROM THE GENERAL PUBLIC. FURTHERMORE,
IT'S BEEN SHOWN THAT NON-MILITARY "NON-
LETHAL WEAPONS ARE EFFECTIVELY LETHAL,
"DEADLY" WHEN AIMED TO KILL AND MAIM.
[JUNE] TIMES P.M. REPORTS CASUALTIES FROM NON-
LETHAL MISSILES IN THE CURRENT TIME. 2020.]

R 20 65 MISSILES IS MORE STYLE THAN SUBSTANCE.
IF THE REPUBLIC EXISTED, LOCAL POLICE
WOULD BE FREE AGENTS. NOT RANKED
MILITARY STYLE. THOSE COLONIALS WHO
HAD A TRUE CONCEPT OF "POPULAR
SOVEREIGNTY AND AN HONEST INTENT TO
SET UP A "REPUBLIC" ON THAT PRINCIPAL
WERE UNDONE BY THE BRITISH
LOYALISTS WHO FROM THE "GET-GO" WORKED
TO UNDERMINE THE POTENTIALITY. THE
CONSTITUTIONAL CONVENTION - 3 YEARS AFTER
THE CONCLUSION OF THE REV. WAR SET
UP THE FEDERAL GOV. REZ WE HAVE TODAY.

POLICE OVERSIGHT BOARD

**INTERNAL AFFAIRS PROFESSIONAL STANDARDS DIVISION
STATISTICAL DATA FOR THE MONTH OF JULY 2020**

APD 911 Communications Center
Dispatched calls for Service for JULY 2020:
38,640 (NO STATS FOR JUNE)

INTERNAL CASES FOR THE MONTH OF JULY 2020

Total Internal Cases Completed in the month of JULY

6 completed cases (sent out to the area command)

1. IA Cases opened in the month of JULY 2020: 8
 2. Area Command IA cases opened for the month of JULY 2020: 69
 3. Pending IA Cases for the month of JULY 2020: 8
 4. Internal Cases Mediated: 0
-

DISCIPLINE IMPOSED FOR INTERNAL CLOSED CASES IN JULY 2020

I-134-20: Conduct- 56 hour Suspension /Verbal reprimand

I-58-20: On-Duty Conduct-/8 hour Suspension

I-603-19: On-Duty Conduct/10 hour Suspension

I-525-19: On-Duty Conduct/50 hour Suspension

**I-497-19: On-Duty Conduct/ Written Reprimand/40 hour Suspension
Response to Behavioral Health Issues/8 hour Suspension**

EIRS FOR JULY 2020: 172 alerts distributed (Overall and Incident type alerts)

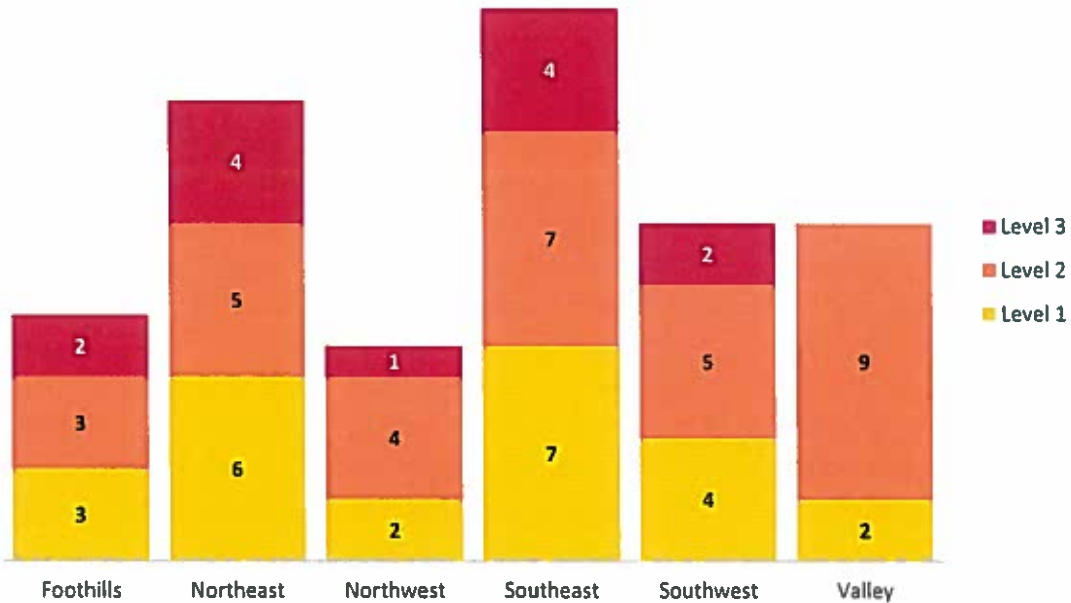
Civilian Police Oversight Agency Board
INTERNAL AFFAIRS FORCE DIVISION
STATISTICAL DATA FOR THE MONTH OF JULY 2020

INCIDENT AREA COMMAND

	Level 1	Level 2	Level 3	Grand Total
Foothills	3	3	2	8
Northeast	6	5	4	15
Northwest	2	4	1	7
Southeast	7	7	4	18
Southwest	4	5	2	11
Valley	2	9		11
Grand Total	24	33	13	70

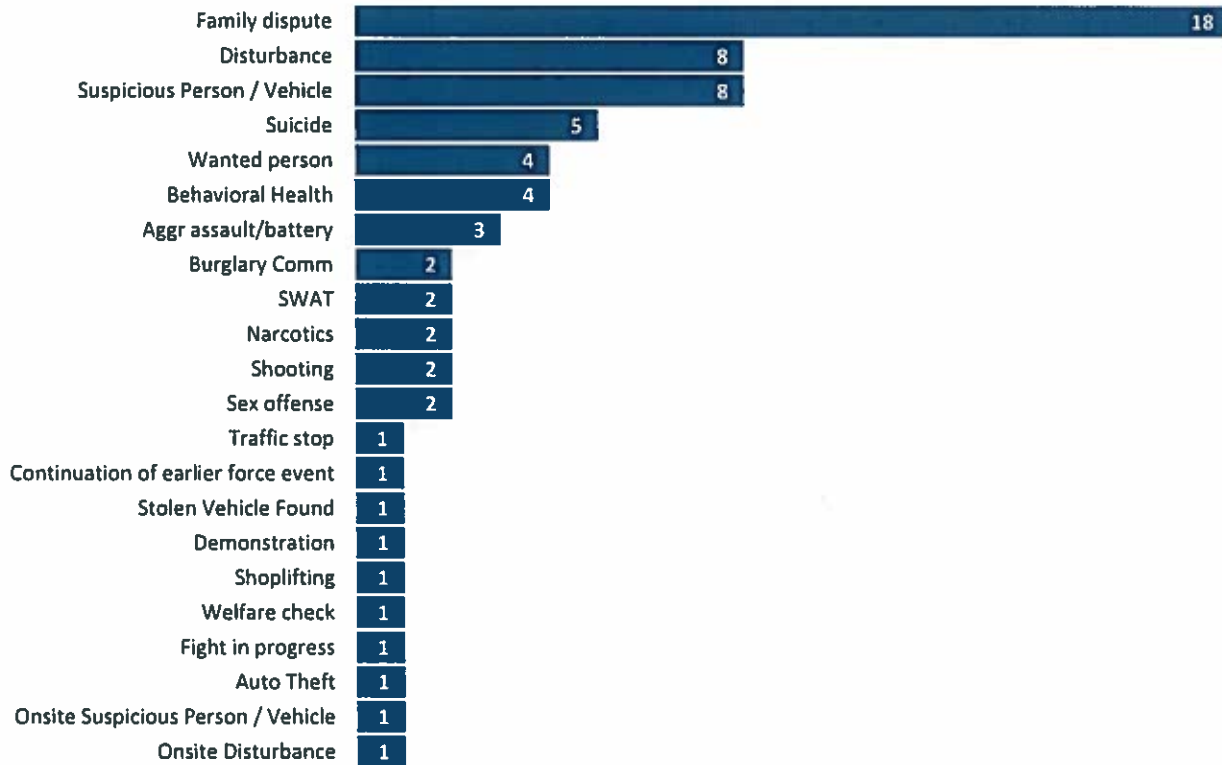
Force cases are now categorized by three levels. If a case involves multiple applications of force, it is categorized as the most serious at the case level. If one event involves both a force event and a tactical activation, the event is categorized as a force event for this report. These counts are not considered final as investigations are continuously updated.

July 2020 Force Events

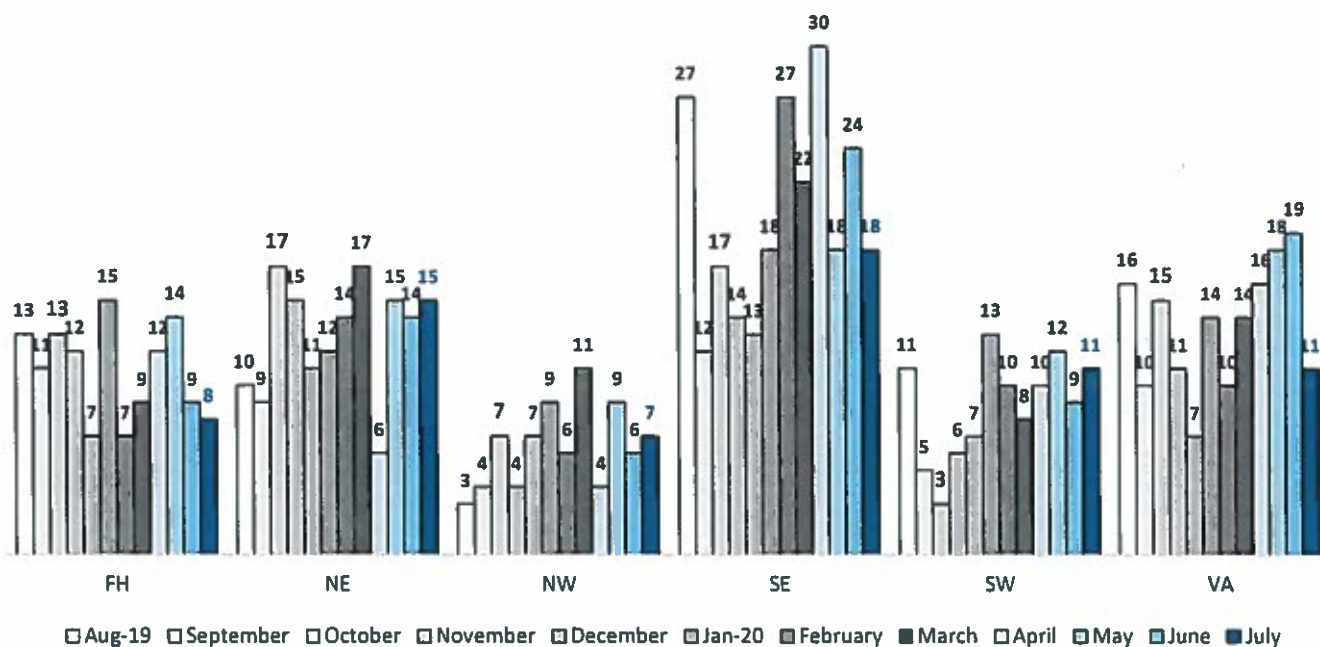


Civilian Police Oversight Agency Board
INTERNAL AFFAIRS FORCE DIVISION
STATISTICAL DATA FOR THE MONTH OF JULY 2020

Call Types Associated with July 2020 Force Events



Twelve Months of Force Data



2020 CIVILIAN POLICE OVERSIGHT BOARD SUBCOMMITTEE

POLICY AND PROCEDURE (PNP): Meetings are held every 1st Thursday of every month.
Board Members: W. Kass, Chair, T. Armijo-Prewitt, E. Olivas,

CASE REVIEW COMMITTEE (CRC): Meetings are held quarterly during the months of January, April, July and October. Board Members T. Armijo-Prewitt, C. Galloway, E. Nixon

OUTREACH: Meetings are held every 4th Tuesday of every month.
Board Members: C. Galloway, Chair, D. Mitchell, E. Nixon

PERSONNEL: Meetings are held the last Monday of every month.
Board Members: E. Olivas, Chair, W. Kass, D. Mitchell

August 13, 2020
Via Certified Mail

Re: CPC #046-20 APPEAL

Dear Mr. M

Our office received the complaint you filed on October 4, 2019 against Albuquerque Police Department (APD) Officer C. for an incident that took place on September 30, 2019. A Civilian Police Oversight Agency (CPOA) Investigator was assigned to investigate your complaint. The CPOA thoroughly and impartially investigated the complaint. Below is a summary of the complaint, and the CPOA's investigation and findings.

I. THE COMPLAINT

Mr. M said he was driving home from work when he was passed by APD vehicle P77. He said when he caught up to the vehicle their rate of speed was about 100 mph. He said he was filming this on his phone on the dash of his car. He said he followed behind the officer and as they got closer to Albuquerque, the officer noticed he was being filmed, so he started slowing down. Mr. M continued to follow behind the officer because if he would have passed the officer he would have been speeding. The officer switched lanes and Mr. M continued following behind and switched lanes behind the officer. He complained that the officer then slammed on his brakes and came to a complete stop on the freeway, putting Mr. M and other drivers at risk. He had to swerve around the officer to avoid a collision and when he did the officer put on his lights and pulled him over. Mr. M complained he hadn't broken any laws, yet he was still pulled over. The officer told him that it isn't safe for Mr. M to be following him. Mr. M said it's not against the law to film or watch officers and he just happened to be going the same way as the officer. He complained that he called 311 and felt that the woman who took his info couldn't fully understand him and couldn't report or record what needed to be recorded. He complained he still hasn't received a call back from 311.

II. THE ORIGINAL INVESTIGATION

The CPOA Investigator reviewed your complaint, Officer C.'s written report, and APD SOPS. It should be noted that Officer C. had lapel video of the incident; however, due to the 120-day automatic deletion policy, the lapel video was not available to the Investigator. Your complaint showed that you admitted to driving about 100 mph while catching up to Officer C. in your vehicle and following behind him, which is breaking the law and is contradictory to your statement that you did not break the law. Officer C. wrote an incident report summarizing the incident from his perspective and, in it, explained that he became concerned with you following behind him when he saw a small light on your dashboard. He thought the light may have been a signal to him that you were having an emergency so after changing lanes and getting into the

right lane, he applied his brakes so you passed him and that's when he activated his emergency lights and siren. He approached you and asked if everything was okay due to you following him. You told him you were recording him and that his driving was inadequate. He asked if you wanted to make a police report and you told him you wanted to file a formal complaint another way. He then provided you with a complaint form, his name and badge number so you could file a formal complaint. He then told you not to follow any police officers in the future because due to their line of work this behavior could be perceived as someone trying to ambush and kill police officers.

III. THE APPEAL

The Board for the Civilian Police Oversight granted a request for appeal in this case on May 21, 2020 for the following reasons:

- Complainant's video footage never obtained and reviewed
- Officer C.'s lapel video was said to have been unavailable due to the Department's 120-day video deletion policy
 - At the of the appeal request hearing, Director Edward Harness acknowledged that lapel footage was, in fact available.

The appeal was originally scheduled to be heard in June, but the complainant's video had not been obtained for Board review, so the appeal hearing was delayed until the July 9th meeting of the Board.

On July 8, 2020, an email was sent to Director Harness stating that Mr. M would not be able to attend the July 9th meeting. At that meeting, the Board, having reviewed the appeal documents and videos, voted to proceed with the appeal hearing even though Mr. M would not be in attendance.

IV. APPEAL CONCLUSION

The Board acknowledges that the findings letter inaccurately indicated the lack of availability of Officer C.s lapel video due to the 120-day automatic deletion policy. The lapel video was eventually made available by the CPOA and reviewed by the Board. We also acknowledge that there was a failure on the part of the CPOA to obtain the complainant's video evidence prior to the appeal hearing. Once made available to the Board, the video was used to support the findings below.

The Agency and Board originally failed to identify a **SUSTAINED** policy violation of SOP 1-1-4 (F)(2)2 which states, in part, "Personnel will operate official vehicles in a careful and prudent manner and will obey all laws and all department orders about such operations".

Officer C.'s lapel video was not activated until after the complainant had been pulled over and contact was made between the parties. However, after reviewing Mr. M cell phone video, it was unanimously determined that Officer C. was, in fact, driving at a speed of between 90 and 95 miles per hour. We note, however, that there was no evidence available to support the allegation that the officer "slammed on his brakes and came to a completed stop on the freeway".

The Board for the Civilian Police Oversight Agency thanks you for your willingness to fully engage the complaint process.

Sincerely,
The Civilian Police Oversight Agency Board by

Dr. William Kass, Chair
(505) 924-3770

cc: Albuquerque Police Department Chief of Police